IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Bail Appl..No. 7727 of 2007()

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[CRIME NO.536/2007 OF PARASSALA POLICE STATION]

: PETITIONER/ACCUSED

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BABU, NEARBY ILANKOM ROAD, PARASSALA
DESOM, PARASSALA VILLAGE.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS:

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THE STATE OF KERALA, REPRESENTED BY
THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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B.A.No.7727 of 2007

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Dated this the 14th day of December 2007

**O R D E R**

Application for anticipatory bail. The petitioner faces allegations for offences punishable under Section 308 I.P.C. The crux of the allegations is that the petitioner had assaulted the de facto complainant and inflicted injury on him with a dangerous weapon - a knife. The de facto complainant sustained injuries. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. The petitioner and the de facto complainant were thick friends. In the course of an altercation under intoxication, the unfortunate incident had allegedly taken place even admittedly. In these circumstances, the petitioner may granted anticipatory bail it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

This is a fit case where the petitioner must be directed to appear before the investigating officer or the learned Magistrate and then seek regular bail, submits the learned Public Prosecutor.

4. I have considered all the relevant inputs. There is no contention even, that the de facto complainant and the petitioner who, it is claimed, are thick friends have settled their disputes or compounded the offences allegedly committed by the petitioner. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

**(R.BASANT, JUDGE)**

jsr // True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007